

Remarks

Claims 1 and 3 are canceled to advance the prosecution.

Claims 4-7 are in the case.

Claims 3-7 are rejected under 35 U.S.C 103 (a) as unpatentable over Eckman et al. (US 4,822,535) in view of Mosier (U.S. 4,492,720), Hatsuda (U.S. 6,194,531) and Cruise (Biomaterials) further in view of Nelson (U.S. 6,596,298) Reconsideration is requested. Claim 3 is canceled. Claims 4 is amended to be in independent form. So the rejection applies to claims 4-7.


Nelson is relied on in the rejection to teach N-isopropylacrylamide (NIPA) as a second hydrogel precursor. The rejection relies on Example 4 of Nelson. The rejection overlooks that Example 4 of Nelson teaches incorporation of nanospheres into fibers which detracts from the temperature sensitivity of microsphere product (since the fiber material acts as a thermal insulator), that Example 4 and Nelson do not define nanosphere, that Example 4 does not disclose forming it's "nanospheres" by a method as in amended claim 4 but rather by the generic statement of the words "emulsion polymerization or other methods, that no emulsifying agent or other details of the "emulsion polymerization" are disclosed, that the generic statement of "emulsion polymerization covers a very wide range of very different proceedings, that no temperature of the LCST (lower critical solution temperature) for a nonosphere is given and the relative temperature of immersion versus the LCST is critical for proper release of impregnated biological agents within the microspheres and of a need to provide an LCST of a formed microsphere above body temperature or how to obtain this.

Crosslinking with crosslinker is required to form the hydrogels of claim 4 and Nelson's Example 4 doesn't describe the use of any crosslinker. Note that polymerization is different from crosslinking. Polymerization doesn't require a crosslinker. The office action confuses polymerization and crosslinking. Thus Nelson doesn't enable formation of a PNIPAAm-based hydrogel and is therefore defective as prior art. See Impax Laboratories v. Aventis, 88 U.S.P.Q. 2d 138 (CAFC). Because Nelson is defective, the whole rejection is defective.

Allowance is requested.

Respectfully submitted,  
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